

**LAPORTE COUNTY
CIRCUIT AND SUPERIOR COURTS**

**LOCAL RULES OF PRACTICE AND PROCEDURE
July 31, 2006**

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LR46 – TR 79 (H) – 1 Selection of Special Judges in Civil Cases

In the event a Special Judge does not accept appointment under Sections (D), (E) or (F) or TR 79, the appointment of a Special Judge for that case shall be made as follows:

1. The presiding Judge in the court where the case is filed shall name a new panel of three (3) Judges from the Judge pool.
 - (a) Judge pool shall include all presiding Judges, Senior Judges, Magistrates and Retired Judges in the 32nd Circuit (LaPorte County).

Current Judge Pool:

Circuit Court: Robert W. Gilmore, Jr.
Superior Court #1: Walter P. Chapala
Superior Court #2: Steven E. King
Superior Court #3: Paul J. Baldoni
Superior Court #4: William J. Boklund
Magistrate: Sally A. Ankony
Senior Judge: Robert S. Gettinger
Senior Judge: Donald D. Martin
Retired Judge: Arthur A. Keppen

- (b) New panel shall not include the names of and Judges named on the first panel in the case.

2. Striking from the new panel shall be made as indicated in TR 79 (F)(2), (3), as follows:
 - (a) Striking From Panel. In an adversary proceeding, each party shall be entitled to strike one judge from the panel. In an ex parte proceeding, the sole party shall be entitled to strike one judge from the panel.
 - (b) The moving party shall be entitled to strike first. The parties shall have not less than seven (7) days nor more than fourteen (14) days to strike as the court may allow.
 - (c) Failure to Strike. If the moving party fails to timely strike, the judge who submitted the panel shall resume jurisdiction of the case. If the case is an ex parte proceeding or if a non-moving party fails to timely strike, the Clerk of the Circuit Court shall make the final strike.
3. Appointment of Special Judge. The judge who submitted the panel shall appoint the Judge remaining on the panel as special judge in the case.
 - (a) A person appointed to serve as Special Judge under this Local Rule shall accept jurisdiction in the case unless the appointed special judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under this rule, or excused from service by the Indiana Supreme Court. The order of appointment under the local rule shall constitute acceptance. An oath or additional evidence of acceptance of jurisdiction is not required.
 - (b) If the appointed Judge is disqualified, ineligible or excused pursuant to (a) above, then the presiding Judge of the Court in which the case is filed will then name a Judge from the pool; that Judge so named by the presiding Judge shall then appoint a Special Judge for the case from the remaining Judges in the pool who have not been previously named to the panel.

LR 46 – CR 2.2 – 2

Assignment of Judges in Criminal Cases

Pursuant to Criminal Rule 2.2, Assignment of Cases, and in conjunction with the weighted caseload measures, the Judge of the LaPorte Circuit and the LaPorte Superior Courts No. 1, 2, 3, and 4, adopt the following amendments to Local Rule 1 for the assignment of criminal actions filed in LaPorte County:

The assignment of all felony and misdemeanor cases filed in LaPorte County shall be pursuant to the line of demarcation which runs east and west as follows: The line of demarcation is I-94 east to the intersection of Highway #20 and #35; east to the intersection of Highway #20 and State Road #2; east to the county line.

1. All felonies occurring South of the line of demarcation, are assigned to LaPorte Circuit Court.
2. All felonies, except for D felonies, occurring north of the line of demarcation are assigned to LaPorte Superior Court No. 1.
3. All misdemeanors occurring to the south of the line of demarcation are assigned to LaPorte Superior Court No. 3
4. All D felonies and misdemeanors occurring north of the line of demarcation are assigned to LaPorte Superior Court No. 4.
5. Murder and Class A, B and C felonies and misdemeanors arising out of the State Penal Institutions in LaPorte County are assigned to the LaPorte Superior Court No. 2.

If the State of Indiana dismisses a criminal action and thereafter re-files the same charge, said charge must be re-filed per the “lines of demarcation”.

In the event a change of Judge, pursuant to Criminal Rule 13(c) is granted, the assignment of a successor Judge shall be as follows:

1. Upon a change of venue from the Judge of LaPorte Circuit Court, the Judge of LaPorte Superior Court 1 shall become the successor Judge and
2. Upon a change of venue from the Judge of LaPorte Superior Court No. 1, the Judge of LaPorte Circuit Court shall become the successor Judge.
3. Upon a change of venue from the Judge of LaPorte Superior Court No. 2, the Judge of Superior Court No. 4 shall become the successor Judge and vice versa.
4. Upon a change of venue from the Judge of Superior Court No. 3, the Judge of the LaPorte Circuit Court shall become the successor Judge.

LR46 – AR 15 – 3

Court Reporting Services

Section One. Definitions. The following definitions shall apply under this local rule:

- (1) A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware,

software programs, disks, tapes, and any other device used for recording, storing, and transcribing electronic data.

- (3) *Work space* means that portion of the court's facilities dedicated to each court reporter and shall include, but not be limited to, actual space in the courtroom and any designated office space.
- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic, or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but are hours not in excess of forty (40) hours per work week.
- (8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- (9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e., Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) *Court* means the particular court for which the court reporter performs services.
- (11) *County indigent transcript* means a transcript that is paid for from county funds and to be used on behalf of a litigant who has been declared indigent by the court.
- (12) *State indigent transcript* means a transcript that is paid for from state funds and is to be used on behalf of a litigant who has been declared indigent by the court.
- (13) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.
- (14) *Expedited transcripts* are those which are requested to be completed within three (3) days.

Section Two. Salaries and per Page Fees for Non-Appeal Transcripts.

- (1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court.

- (2) The maximum per page fee a court reporter may charge for the preparation of a non-appeal transcript shall be a regular page rate of \$3.50; and an expedited rate of double the regular page rate. (This includes county and state indigent transcripts.).
- (3) The maximum per page fee a court reporter may charge for a copy of a transcript shall be \$1.50.
- (4) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.
- (5) A minimum fee of \$35.00 shall be required for any transcript ordered. (This includes county and state indigent transcripts.)

Section Three. Private Practice.

- (1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript and the court reporter desires to utilize the court's equipment, work space and supplies, and the Court agrees to the use of the court equipment for such purpose, the Court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
 - (a) the reasonable fair market rate for the use of equipment, work space and supplies;
 - (b) the method by which records are to be kept for the use of equipment, work space and supplies, and
 - (c) the method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
- (2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

Section Four. Appeal Transcripts.

- (1) The maximum per page fee a court reporter may charge for the preparation of an appeal transcript shall be a regular page rate of \$3.75; and an expedited rate of double the regular page rate. (This includes county and state indigent transcripts.)
- (2) The maximum per page fee a court reporter may charge for the preparation of the Table of Contents, Exhibit Volume, Exhibit Table of Contents and Index shall be a regular page rate of \$3.75; and an expedited rate of double the regular page rate. (This includes county and state indigent transcripts.)
- (3) An additional labor charge approximating the hourly rate based upon the court reporter's annual court compensation may be charged for time spent binding the transcript and the exhibit binders.
- (4) The Clerk of the Court shall maintain and be responsible for the original hard copy of final transcripts required to be prepared for purposes of taking an appeal in accordance with Rule 12 of the Indiana Rules of Appellate Procedure.

Section Five. Retroactive Application of Rule.

- (1) This local court rule shall be retroactive to July 2, 2001, for any unbilled services, subject to approval by the Supreme Court of the State of Indiana.

LR 46 –AR 1 (E)- 4

Caseload Allocation

This matter came before the judges of the courts of record of this county pursuant to the “Order for Development of Local Caseload Plans” issued by the Indiana Supreme Court on the 16th day of July, 1999, in Indianapolis, Indiana, and the judge of this county having met and considered that order, together with the data and advisory materials related thereto provided by the Division of State Court Administration of the Indiana Supreme Court and those particular local factors that pertain to the efficient administration of justice, and being duly advised in the premises, now issue the following findings and rules pertaining to local caseloads of the courts of this county:

1. Based on the 1998 statistical data provided by the Division of State Court Administration of the Indiana Supreme Court, the average weighted caseload utilization for LaPorte County Courts is 175%.
2. Consistent with the stated policy and purposes of the Indiana Supreme Court's “Order for Development of Local Caseload Plans” issued July 16, 1999, the following considerations bear import to the effective use of judicial resources and the effective access of LaPorte County citizens to the Courts:

a) LaPorte County's five courts and their companion clerk's offices are located in three separate county complexes: LaPorte Circuit Court at the Circuit Courthouse [in LaPorte, Indiana], LaPorte Superior Court 3 located in the County Government Complex [in LaPorte,

Indiana]; and LaPorte Superior Courts 1, 2 and 4 located in the Superior Courthouse [in Michigan City, Indiana]. A distance of approximately thirteen miles separates Michigan City from LaPorte; four separate clerk's offices service the five courts which, in terms of square mileage, serve the second largest county in the State of Indiana. That geographical configuration has attendant considerations of administrative necessity for the allocation of the county's personnel, financial, and space resources; for example, the maintenance of court records in four separate clerk's offices and assignment of the clerk's personnel, the offices of both the Deputy Prosecutors and Public Defenders and assignment of their personnel, the offices of the courts' respective Probation Departments, and the warrant divisions of the Sheriff's Department are each located and based on access to particular courts on a geographical basis; likewise, those geographic considerations underlie LaPorte County's Local Court rule for the assignment of criminal cases, which provides for the distribution of cases on the basis of demographic considerations and the nature of the charge. A wholesale restructuring of caseloads to provide for specialization of courts by case type is precluded by considerations of space, personnel allocation, and geography; fortunately, the present general distribution of cases generally has served the courts, its support services, and the citizens of LaPorte County in an effective fashion.

b) Complicating the configuration of the courts and matters of caseload distribution is the additional workload created by the various correctional facilities located in LaPorte County that house approximately 7,000 offenders and generate a criminal caseload and unique *pro se* civil litigation that defies the weighted case-load study assignments of time necessary to process particular case-types. See Judicial Administration Committee, Judicial Conference of Indiana, *Weighted Caseload Study for Indiana's Trial Court Judicial Officers*, P.25 (December, 1996).

c) LaPorte County should benefit from specialization in the handling of all Children in Need of Services and Delinquency proceedings by a single judicial officer; that caseload, with its attendant demands for interaction with a variety of social service agencies and its administration of the Juvenile Detention Center, as well as the distinct need for those cases to be processed in an expeditious fashion and reviewed on a continuing basis, warrant the singular focus of one judicial officer;

d) Similarly, the need for specialization in family issues and the existing "high volume" caseloads of LaPorte Superior Courts 3 and 4 warrant the restructuring of existing caseloads, albeit with consideration for the demographic and geographic considerations discussed herein.

e) Indiana Code 33-5-31.1-11 embodies recognition of geographically-based caseloads and specialization; the legislature provided therein that Superior Court 3, which sits in LaPorte, and Superior Court 4, which sits in Michigan City, each maintain standard small claims and misdemeanor divisions.

f) As of July 1, 1999, LaPorte County's judiciary benefits from the General Assembly's addition of a Magistrate to its judicial workforce; the impact of that additional magistrate, which supplants a part-time Probate Commissioner's position and so results in the addition of .5 judicial officers, cannot be fully assessed as of this date but warrants future review to determine its import for caseload allocation.

g) The resources of three Senior Judges provide a potential and additional vehicle for accomplishing the policy and purposes of the Supreme Court's "Order for Development of Local Caseload Plans."

h) Indiana Code 33-5-31.1-9 and 10 provide additional vehicles for the reduction in disparity of caseloads; the former statute provides for the consensual transfer of cases between courts, while the latter statute provides for the judges of the respective courts to sit as judge in another court with the consent of the respective judges;

i) The geographically-based distribution of criminal cases and filing patterns in civil caseloads warrant that a semi-annual review of caseload disparity be conducted by LaPorte County judges and adjustments made as needed for the efficient administration of justice.

j) In conjunction with the creation of the Magistrate position discussed in subparagraph 3(f) herein, the creation of additional courtroom space is presently under discussion with the LaPorte County Commissioners and LaPorte County Council that will provide that magistrate with the ability to serve in both the LaPorte and Michigan City courthouses; likewise, additional space will provide additional flexibility for the use of senior judges to reduce caseload disparity, assuming that use of senior judges is authorized for all courts of the county as opposed to use by a special tribunal.

WHEREFORE, IT IS ORDERED AND ADJUDGED that:

A) The Magistrate of LaPorte Circuit Court and LaPorte Superior Court 4, shall serve the LaPorte Circuit Court for two days of each week and shall serve LaPorte Superior Court 4 three days each week; in addition thereto, that Magistrate shall serve LaPorte Superior Court 3 for one-half day each quarterly period for the purpose of handling those small claims filed in that court by offenders housed in Department of Correction facilities in LaPorte County;

B) The caseload of Juvenile Magistrate shall include all Delinquency and Child in Need of Services proceedings filed in LaPorte County, as well as those cases otherwise assigned to her by the Judge of the LaPorte Circuit Court.

C) The caseloads of LaPorte Circuit Court, Superior Court 1, and Superior Court 2 shall include all new civil filings for protective orders, dissolutions of marriage, paternity, custody, and/or support; the Clerk of LaPorte County courts and the deputy clerks are directed to inform litigants of the provisions set forth herein; given that the various courts of LaPorte County are, by statute, courts of general jurisdiction, it is recognized that the clerk is not empowered to prohibit the filing of a particular type of case in a particular court; in the event a filing occurs that is not in compliance with the provisions set forth herein, the judge of LaPorte Superior Court 3 or 4 that receives that filing shall cause it to be transferred to an appropriate court in accordance with the provision set forth herein pursuant to Indiana Code 33-5-31.1-9.

D) Efforts to reduce caseload disparity shall include requests to the Indiana Supreme Court for the appointment of present Senior Judges to serve various courts of LaPorte County, as opposed to a singular designated court.

E) To alleviate caseload disparity amongst the courts and accomplish the purposes of the “Order for Development of Local Caseload Plans”, LaPorte Circuit Court is hereby designated to assist LaPorte Superior Court 4 in its caseload, while LaPorte Superior Court 2 is hereby designated to assist LaPorte Superior Court 3 in its caseload; given the existence of the newly-created magistrate position, the redistribution of caseloads set forth herein, and the contemplated availability of additional courtroom space and enhanced use of Special Judges that space will provide, a further mathematically-based reallocation of cases would lack a meaningful basis at this time and awaits further review;

F) The judicial officers of this county shall meet on a semi-annual basis to review the issue of caseload disparity and shall continue in the endeavor to accomplish not only a statistical parity in the respective caseloads of the courts, but, moreover, a caseload distribution that enhances citizen access to the courts in a timely and expeditious manner and recognizes the particular geographic and demographic needs of the populace.

G) During the months of July through December, no dissolution or legal separation proceedings may be filed in LaPorte Superior Court 1 but rather, consistent with Local Rule, must be filed in LaPorte Circuit Court or LaPorte Superior Court 2.

LR46 – JR 4 – 5**Selection of Juries**

The judges of LaPorte County adopt pursuant to Jury Rule 4, the two tier notice and summons method of jury selection.